

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SPENCER VALLEY ELEMENTARY
SCHOOL DISTRICT AND CALIFORNIA
VIRTUAL ACADEMY AT SAN DIEGO
CHARTER.

OAH CASE NO. 2013040460

ORDER GRANTING REQUEST TO
AMEND COMPLAINT AND ADD
PARTY

On April 09, 2013, Parents on behalf of Student filed a due process hearing request (complaint), naming the Spencer Valley Elementary School District (District).

On April 15, 2013, Student filed a request to amend complaint, which seeks to (i) add as a party the California Virtual Academy at San Diego Charter (CAVA) and (ii) add additional allegations against District and new allegations against CAVA for failing to implement Student's January 26, 2012 individualized education program (IEP). On April 18, 2013, CAVA filed a notice of representation and non-opposition to the Student's request. On April 19, 2013, District filed non-opposition to the addition of CAVA as a party and amendment of the complaint.

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).)¹ The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

Student's request to amend is timely made and unopposed. Although the better practice is to include all claims in one complaint, Student's complaint and request set forth Student's claims against both District and CAVA in a brief and straightforward manner, and will be ordered read together as Student's amended complaint.

¹ All statutory citations are to Title 20 United States Code unless otherwise indicated.

ORDER

1. Student's request to add CAVA as a party is granted.
2. Student's request to amend his complaint is granted. The combined complaint and request to amend documents shall be read together and referred to hereafter as Student's amended complaint.
3. The amended complaint shall be deemed filed on the date of this order. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

Dated: April 19, 2013

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings